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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF NEW YORK

3 ALAN JULES WEBERMAN  
4 Independent Research Associates )  
5 318 3<sup>rd</sup> Avenue #520 )  
6 New York, New York 10010 )

Case No.

15 CV 02789  
JUDGE PAULEY

USDC SDNY  
DOCUMENT  
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DOC#:

DATE FILED: 9/24/15

Plaintiff,

vs.

8 CENTRAL INTELLIGENCE AGENCY  
9 Office of General Counsel  
10 Washington, DC 20505,

Defendant

AMMENDED COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF

13 Plaintiff, Independent Research Associates, brings this  
14 action against Defendant Central Intelligence Agency ("CIA") to  
15 compel compliance with the Freedom of information Act, 5 U.S.C.  
16 § 552 ("FOIA"). As grounds therefore, Plaintiff alleges as  
17 follows:

#### 18 JURISDICTION AND VENUE

19 1. The Court has jurisdiction over this action pursuant to 5  
20 U.S. C. § 552(a) (4)(B) and 28 U.S. C. § 1331.

21  
22 2. Venue is proper in this district pursuant to 28 U.S.C. § 1391  
23 (e).

#### 24 PARTIES

25 3. Plaintiff is a researcher working closely with the Government  
26 of Portugal to finally solve the mystery of Camarate. On  
27 December 4, 1980 the Prime Minister of Portugal, Sá Carneiro,

28 AMMENDED COMPLAINT FOR DECLARATORY AND  
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1 and the Defense Minister, Amaro da Costa, were on board a plane  
2 which crashed immediately after takeoff. Also on the plane were  
3 Snu Abecassis, the Prime Minister's partner, the wife of the  
4 Defense Minister, Antonio Patrico Gouveia an aide, and two  
5 pilots. All were killed along with an unidentified man on the  
6 ground. The plane crashed in Camarate, in the suburbs of Lisbon,  
7 and thus the mystery of Camarate was born. Plaintiff seeks to  
8 promote integrity, transparency, and accountability in  
9 government and fidelity to the rule of law. In furtherance of  
10 its public interest mission, Plaintiff regularly serves FOIA  
11 requests on federal, state, and local government agencies,  
12 entities, and offices, and disseminates its findings to the  
13 public and in this case to the Portuguese Parliament. In April  
14 2015 Plaintiff testified before the Camarate Committee of the  
15 Portuguese Parliament. **SEE EXHIBIT A.**

16 4. Defendant is an agency of the United States Government and is  
17 headquartered at Central Intelligence Agency, General Counsel's  
18 Office, Washington, DC 20505. Defendant has possession, custody,  
19 and control of records to which Plaintiff seeks access.

20  
21 5. CLAIM UP WHICH RELIEF SHOULD BE GRANTED

22  
23 The FOIA's statutory language, as the Supreme Court ruled in  
24 *Kissinger v. Reporters Committee for Freedom of the Press*, makes  
25 federal jurisdiction dependent upon a showing that an agency has  
26 (1) "improperly," (2) "withheld," (3) "agency records." Judicial  
27 authority to devise remedies and enjoin agencies can only be  
28 invoked, under the jurisdictional grant conferred by § 552, if

1 the agency has contravened all three components of this  
2 obligation. (445 U.S. 136, 150 (1980). By being a party to the  
3 assassination of the Prime Minister of Portugal the CIA violated  
4 Executive Orders against the assassination of foreign leaders.  
5 The first, Executive Order 11905, Sec. 5(g), 1 41 Fed. Reg.  
6 7703, 7733 (President Gerald Ford, 2/19/76), was part of an  
7 executive order issued by President Ford in response to concerns  
8 raised in the 1970's with respect to alleged abuses by the U.S.  
9 intelligence community. A select committee chaired by Senator  
10 Frank Church (the Church Committee), in its interim report,  
11 addressed allegations of possible U.S. involvement in  
12 assassination plots against certain foreign leaders. This  
13 section of E.O. 11905 stated, "Prohibition of Assassination. No  
14 employee of the United States Government shall engage in, or  
15 conspire to engage in, political assassination."

16  
17 On December 4, 1981, President Ronald Reagan issued Executive  
18 Order 12333 on "United States Intelligence Activities." Section  
19 2.11 of the order provides: "Prohibition on Assassination. No  
20 person employed by or acting on behalf of the United States  
21 Government shall engage in, or conspire to engage in,  
22 assassination." Section 2.12 of the order prohibits indirect  
23 participation in activities prohibited by the order, stating:  
24 "Indirect participation. No agency of the Intelligence Community  
25 shall participate in or request any person to undertake  
26 activities forbidden by this Order." E.O. 12333 is still in  
27 force. The CIA is improperly withholding documents implicating  
28 it in a violation of an EO.

1 The automatic declassification provisions of Executive Order  
 2 13256 (formerly EO 12958, as amended) require the  
 3 declassification of nonexempt historically valuable records 25  
 4 years or older. The EO was originally issued in April 1995 and  
 5 via amendment established 31 December 2006 as the first major  
 6 deadline for automatic declassification under the "25-year  
 7 program". By that date, agencies were to have completed the  
 8 review of all hardcopy documents determined to contain  
 9 exclusively their equities. For CIA, the 2006 deadline covered  
 10 the span of relevant documents originally dating from the  
 11 establishment of the CIA after WWII through 1981.

#### 12 13 STATEMENT OF FACTS

14 5. On May 21, 2013, Plaintiff electronically sent a FOIA request  
 15 to Defendant, seeking access to the following records: All CIA  
 16 documents on Fernando Farinha Simoes and Jose Antonio dos Santos  
 17 Esteves along with identifying data. Defendant acknowledged  
 18 receipt of Plaintiffs FOIA request by letter dated June 4, 2013.  
 19 See **EXHIBIT B**. Defendant refused to acknowledge the existence  
 20 of non existence of requested records. On July 4, 2013 Plaintiff  
 21 appealed this determination. See **EXHIBIT C**. On July 26, 2013  
 22 Defendant acknowledged receipt of appeal. See **EXHIBIT D**. On  
 23 September 27, 2013 Plaintiff's appeal was denied. See **EXHIBIT E**.  
 24 6. The following are the reasons the documents were withheld in  
 25 their entirety.

#### 26 CODE OF FEDERAL REGULATIONS FROM EXECUTIVE ORDER 13526

#### 27 Sec. 3.6. Processing Requests and Reviews.

28 AMMENDED COMPLAINT FOR DECLARATORY AND  
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1           Notwithstanding section 4.1 (i) of this  
2           order, in response to a request for  
3           information under the Freedom of Information  
4           Act, the Presidential Records Act, the  
5           Privacy Act of 1974, or the mandatory review  
6           provisions of this order: (a) An agency may  
7           refuse to confirm or deny the existence or  
8           nonexistence of requested records whenever  
9           the fact of their existence or nonexistence  
10          is itself classified under this order or its  
11          predecessors.

#### 12           GLOMAR RESPONSE

13           Refusal by the agency to either confirm or deny the  
14           existence or non-existence of records responsive to a FOIA  
15           request. See exemptions (b) (1), (b) (6), and (b) (7)(C) at  
16           subpart D of this part.

17           How can CIA classify something that doesn't exist? This  
18           indicates that documents on these men do exist.

#### 19           CIA ACT OF 1949

20           Protection of Nature of Agency's Functions  
21           Sec. 6. [50 U.S.C. Sec. §403g]

22           In the interests of the security of the  
23           foreign intelligence activities of the  
24           United States and in order further to  
25           implement section 403-1(i) of this title  
26           that the Director of National Intelligence  
27           shall be responsible for protecting  
28           intelligence sources and methods from  
unauthorized disclosure, the Agency shall be  
exempted from the provisions of sections 1  
and 2 of the Act of August 28, 1935 (49  
Stat. 956, 957; 5 U.S.C. §654), and the  
provisions of any other law which require  
the publication or disclosure of the  
organization, functions, names, official  
titles, salaries, or numbers of personnel  
employed by the Agency: Provided, That in

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1 furtherance of this section, the Director of  
2 the Office of Management and Budget shall  
3 make no reports to the Congress in  
4 connection with the Agency under section 607  
5 of the Act of June 30, 1945, as amended (5  
6 U.S.C. §947(b)).

7 This indicates the men were connected with CIA or CIA  
8 had intelligence on them.

9 (i) PROTECTION OF INTELLIGENCE SOURCES AND METHODS.

10 (1)

11 The Director of National Intelligence shall  
12 protect intelligence sources and methods  
13 from unauthorized disclosure.

14 (2) Consistent with paragraph (1), in order  
15 to maximize the dissemination of  
16 intelligence, the Director of National  
17 Intelligence shall establish and implement  
18 guidelines for the intelligence community  
19 for the following purposes:

20 (A) Classification of information under  
21 applicable law, Executive orders, or other  
22 Presidential directives.

23 (B) Access to and dissemination of  
24 intelligence, both in final form and in the  
25 form when initially gathered.

26 (C) Preparation of intelligence products in  
27 such a way that source information is  
28 removed to allow for dissemination at the  
lowest level of classification possible or  
in unclassified form to the extent  
practicable.

(3) The Director may only delegate a duty or  
authority given the Director under this  
subsection to the Principal Deputy Director  
of National Intelligence.



1 This indicates that since the Director has to get involved this  
 2 is information that links CIA to the Camarate event.

3 7. The Court should note that the most recent development in  
 4 this case is the confession of two long time suspects, Fernando  
 5 Farinha Simoes and Jose Antonio dos Santos Esteves, who both  
 6 admitted to conspiring to place a bomb on board the ill fated  
 7 flight. Both named Watergate burglar Frank Sturgis as a co-  
 8 conspirator. This researcher has written extensively on Camarate  
 9 as well as on Frank Sturgis.

10 8. As a result this is an exceptional case and the need to  
 11 protect the information is outweighed by the public's need to  
 12 know.

#### 13 COUNT 1

14 (Violation of FOIA)

15 9. Plaintiff re-alleges paragraphs 1 through 8 as stated herein.

16 10. Defendant has violated FOIA by failing to produce any and  
 17 all records responsive to Plaintiffs May 21, 2013 request.

18 11. Plaintiff is being irreparably harmed by reason of  
 19 Defendant's violation of FOIA, and Plaintiff will continue to be  
 20 irreparably harmed unless Defendant is compelled to conform its  
 21 conduct to the requirements of the law.

22 WHEREFORE, Plaintiff respectfully requests that the Court: (1)  
 23 declare Defendant's failure to comply with FOIA to be unlawful;  
 24 (2) order Defendant to search for and produce any and all non-  
 25 exempt records responsive to Plaintiffs May 21, 2013 request and  
 26 a Vaughn index of allegedly exempt records responsive to the  
 27 request by a date certain; compel defendants to provide to the  
 28 Court and plaintiff a detailed and specific justification,  
 itemization, and indexing, as required by law, for their refusal  
 to disclose the requested records and documents. *Vaughn v.*  
*Rosen*, 484 F. 2d 820 (DC Cir. 1973), *Ash Grove Cement Co. v.*  
*FTC*, 511 F. 2d 815 (DC Cir 1975), *Pacific Architects and*  
*Engineers, Inc. v. Renegotiation Board*, 505 F 2d 383 (DC Cir  
 1974); *Cuneo v. Schlesinger*, 484 F 2d 1086 (DC Cir. 1973).

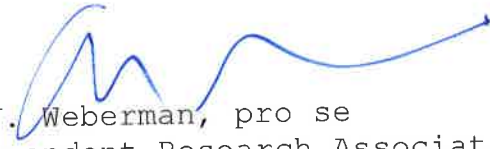
12. Plaintiff seeks an order of this Court compelling the defendants to provide the information mandated by the law, as stated in *Vaughn v. Rosen*, so that plaintiff can adequately perform his adversary role as proponent of disclosure of the requested documents and records, and so that the Court can base its decision on the type of detailed records which our Court of Appeals require in FOIA cases. The order sought, on the other hand, would not significantly burden the defendants, but only require them to provide the Court and the plaintiff with information which defendants should have prepared in the court of the administrative determination of the problem at issue. Furthermore, such an order will contribute to the expedition to which FOIA cases are entitled by statute.

13. A. Enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request;

B. Enjoin Defendants from charging Plaintiffs search, review, or duplication fees for the processing of the Request

14. Grant Plaintiff an award of filing fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Respectfully submitted,



A. J. Weberman, pro se  
Independent Research Associates  
345 East 94<sup>th</sup> St New York NY 10128  
212-987-8659  
Attorneys/or Plaintiff

AMMENDED COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF



Dated this SEPTEMBER 22, 2015

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AMMENDED COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF

EX A

LETTER FROM MEMBER OF CAMARATE COMMISSION REGARDING FREEDOM OF  
INFORMATION REQUEST

TO WHOM IT MAY CONCERN

I am presently participating in a Commission in the Portuguese Parliament, dedicated to analyse the circumstances in which the plane, that carried the Portuguese Prime Minister, fell, in December 1980. It is expected that this Commission will continue to work for the next five months.

I participate in this Commission as a representative of the victims of this aeroplane crash, since I am the brother of one of the victims, António Patricio Gouveia. António was at the time, the chief of cabinet of the Portuguese Prime Minister.

We know that Mr. Jim Hunt and Mr. A J Weberman have been in contact with same entities, namely the CIA, in order to gather information regarding this event, in accordance with the Freedom of Information Act. Under FOIA/PA I wish all INS documents on Frank Anthony Sturgis, AKA Frank Anthony Fiorini born December 9, 1924 – died December 4, 1993, Proof of death. I am willing to assume all costs of search and duplication. I am especially interested in any travel he made to Portugal or Europe from 1975 to 1985.

As a member of this Portuguese Parliament Commission, I would be grateful if the information concerning this matter, requested by both Mr. Jim Hunt and Mr. A J Weberman, be granted, since it will also be taken into consideration by this Commission.

With our best regards



Alexandre Patricio Gouveia



## DELIBERAÇÃO

A X Comissão Parlamentar de Inquérito à Tragédia de Camarate, no quadro das averiguações que tem em curso e para esclarecimento de factos que se prendem com depoimentos prestados pelos cidadãos norte-americanos Jim Hunt e Allan Weberman, bem como com outros elementos constantes do processo, necessita de obter as informações e registos existentes nos arquivos da CIA - Central Intelligence Agency sobre as seguintes pessoas e entidades:

- FERNANDO FARINHA SIMÕES e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;
- JOSÉ ANTÓNIO ESTEVES e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;
- FRANK STURGIS ou FRANK FIORINI e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português, assim como dados sobre a sua estadia em Lisboa ao longo do ano de 1980;
- VILFRED NAVARRO e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;
- PHILIP SNELL e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;
- OLIVER NORTH e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português, assim como dados sobre a sua estadia em Lisboa ao longo do ano de 1980;
- GERY VAN DYKE e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;
- WILLIAM HASSELBERG e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;
- SINAN LEE RODRIGUES, que também usava outros nomes (SINAN EBRAHIM HASSAM SHIWANI, captain SINAN LEE, captain L. R. SINAN, captain STAN VALDEZ SAVAGE, captain HASSAN SINAN EL-KINDY, captain SINAN STEEL, captain TIRIE, S.E.HASSAN, KHALID JAVID, JUAN RODRIGUES, VALDEZ SHAFT BUCCANEER, SIAN ABRAHIM HASSAN EL-KINDY, SIAN HUSSAN MOHAMED, ABDUL HAMID MOHAMED, ABDUL HAMEED ABDULLA, VALDEZ SATAN SAVAGE, GRAVEDIGGER JONES, captain SINAN EL-KINDI APACHE, S.L. ROBINSON, SINAN STEEL), e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;



- JOSÉ BERNARDO CANTO E CASTRO e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;
- JUANITA MARCELLA DE VALDERANO e eventuais actividades desenvolvidas para a CIA, ou com a CIA, em território português;
- CODECO (Comandos de Defesa da Civilização Ocidental) e suas actividades em Portugal nos anos de 1975 a 1980;
- agentes da CIA operando em Lisboa no ano de 1980.

Assim:

A X Comissão Parlamentar de Inquérito à Tragédia de Camarate delibera:

- proceder ao pedido junto da CIA - Central Intelligence Agency, nos Estados Unidos da América, das informações acima indicadas através dos canais parlamentares, oficiais e diplomáticos adequados, sem prejuízo de outros meios legais que possam utilizados, nomeadamente de acordo com o *Freedom of Information Privacy Act*.

Comunique-se à Senhora Presidente e ao Governo, para os devidos efeitos.

Faculte-se cópia aos depoentes Jim Hunt e Allan Weberman.

Palácio de S. Bento, 16 de Abril de 2015

Central Intelligence Agency



Washington, D.C. 20505

KT  
B

4 June 2013

Mr. Alan Webberman

[REDACTED]  
[REDACTED]

New York, NY 10128

Reference: F-2013-01762

Dear Mr. Webberman:

This is a final response to your 21 May 2013 Freedom of Information Act (FOIA) request, received in the office of the Information and Privacy Coordinator on 22 May 2013, for information on the following:

1. Fernando Farinha Simões, born in Lisbon, Portugal, on 23 November 1952, Portuguese citizen, presently in jail at Vale de Judeus, Portugal.
2. José António dos Santos Esteves, born in Angola (former Portuguese colony), on 14 May 1953, presently alive, Portuguese citizen, living in Lisbon, Portugal.

We have assigned your request the reference number above. Please use this number when corresponding so that we can identify it easily.

In accordance with section 3.6(a) of Executive Order 13526, the CIA can neither confirm nor deny the existence or nonexistence of records responsive to your request. The fact of the existence or nonexistence of requested records is currently and properly classified and is intelligence sources and methods information that is protected from disclosure by section 6 of the CIA Act of 1949, as amended, and section 102A(i)(1) of the National Security Act of 1947, as amended. I have enclosed an explanation of these exemptions for your reference and retention. As the CIA Information and Privacy Coordinator, I am the CIA official responsible for this determination. You have the right to appeal this response to the Agency Release Panel, in my care, within 45 days from the date of this letter. Please include the basis of your appeal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michele Meeks".

Michele Meeks  
Information and Privacy Coordinator

Enclosure

EXC

A. J. Weberman  
345 East 94<sup>th</sup> Street 28C  
New York, New York 10128

CIA FOIA/PA  
Washington, D.C. 20205

Under provision FOI/PA I wish to appeal the determination in F-2013-01762. The automatic declassification provisions of Executive Order 13256 (formerly EO 12958, as amended) require the declassification of nonexempt historically valuable records 25 years or older. Camarate was December 1980. From the exemptions cited in the initial letter I know this request is fruitless but do so anyway to exhaust all my administrative appeals.

Signed

A. J. Weberman  
Thursday, July 04, 2013



Central Intelligence Agency



Washington, D.C. 20505

EXTD

26 July 2013

Mr. Alan Weberman  
345 East 94<sup>th</sup> Street  
Apartment 28C  
New York, NY 10128

Reference: F-2013-01762

Dear Mr. Weberman:

We received your 22 May 2013 facsimile appealing our 8 April 2013 final response to your Freedom of Information Act request for the following:

1. Fernando Farinha Simões, born in Lisbon, Portugal, on 23 November 1952, Portuguese citizen, presently in jail at Vale de Judeus, Portugal.
2. José António dos Santos Esteves, born in Angola (former Portuguese colony), on 14 May 1953, presently alive, Portuguese citizen, living in Lisbon, Portugal.

Please continue to use this case reference number so that we can more easily identify your appeal.

You are appealing our initial determination to neither confirm nor deny you material responsive to your request. *Your appeal has been accepted and arrangements are being made for its consideration by the Agency Release Panel.*

You will be advised of the panel's determination. In order to afford requesters the most equitable treatment possible, we have adopted the policy of handling appeals on a first-received, first-out basis. Despite our best efforts, however, the large number of public access requests CIA receives creates processing delays making it unlikely that we can respond to you within 20 working days. In view of this, some delay in our reply must be expected, but every reasonable effort will be made to respond as soon as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michele Meeks".

Michele Meeks  
Information and Privacy Coordinator

Central Intelligence Agency



Washington, D.C. 20505

EXE

27 September 2013

Mr. Alan Weberman  
345 East 94<sup>th</sup> Street  
Apartment 28C  
New York, NY 10128

Reference: F-2013-01762

Dear Mr. Weberman:

This responds to your 4 July 2013 letter appealing our 4 June 2013 final response to your Freedom of Information Act (FOIA) for information on the following:

1. Fernando Farinha Simões, born in Lisbon, Portugal, on 23 November 1952, Portuguese citizen, presently in jail at Vale de Judeus, Portugal.
2. José António dos Santos Esteves, born in Angola (former Portuguese colony), on 14 May 1953, presently alive, Portuguese citizen, living in Lisbon, Portugal.

The Agency Release Panel (ARP) considered your appeal and determined that, in accordance with Section 3.6(a) of Executive Order 13526, the CIA can neither confirm nor deny the existence or nonexistence of records responsive to your request. The "fact of" the existence or nonexistence of requested records is currently and properly classified and relates to intelligence sources and methods information that is protected from disclosure by Section 6 of the CIA Act of 1949, as amended, and Section 102A(i)(1) of the National Security Act of 1947, as amended. Therefore, in accordance with Agency regulations set forth in part 1900 of title 32 of the Code of Federal Regulations, the ARP denied your appeal on the basis of FOIA exemptions (b)(1) and (b)(3). In accordance with the provisions of the FOIA, you have the right to seek judicial review of this determination in a United States district court.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michele Meeks".

Michele Meeks  
Executive Secretary  
Agency Release Panel

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